

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Amber Nicole Gentry,)
Plaintiff,)
v.)
Karnick, Inc. and Steven Cummings,)
Defendants.)

C/A No.: 8:13-cv-02809-GRA
ORDER
(Written Opinion)

This matter comes before this Court for review of United States Magistrate Judge Jacquelyn D. Austin's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(g) DSC, and filed on March 10, 2014. ECF No. 14. On October 15, 2013, Plaintiff brought this action against Defendants Karnick, Inc. ("Karnick") and Steven Cummings alleging claims of sexual harassment, battery, assault, intentional infliction of emotional distress, and premises liability arising from Plaintiff's employment at Karnick's McDonald's franchise restaurant in Anderson, South Carolina. ECF No. 1. On January 6, 2014, Plaintiff filed proof of service indicating that Defendant Karnick, through its registered agent, was served the summons by certified mail on October 17, 2013. ECF Nos. 6, 6-1, & 6-2. That same day, Plaintiff filed a request for entry of default. ECF No. 7. The Clerk of Court entered default on January 7, 2014. ECF No. 8. On February 3, 2014, Defendant Karnick filed a Motion to Set Aside Entry of Default and Allow Karnick, Inc. to Responsively Plead. ECF No. 9. Plaintiff filed a Memorandum in Opposition to Defendant's Motion on February 21, 2014. ECF No. 11. On March 3, 2014, Defendant Karnick filed a Reply Memorandum in Support of its Motion. ECF No. 13.

Under established procedure in this judicial district, Magistrate Judge Austin made a careful review of Defendant's Motion, and now recommends that this Court grant Defendant's Motion and set aside the entry of default. ECF No. 14. For the reasons discussed herein, this Court adopts the magistrate judge's recommendation in its entirety.

The magistrate judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate judge with instructions." *Id.*

In order for objections to be considered by a United States district judge, the objections must be timely filed and must specifically identify the portions of the Report and Recommendation to which the party objects and the basis for the objections. Fed. R. Civ. P. 72(b); see *United States v. Schronce*, 727 F.2d 91, 94 n.4 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841, 845–47 nn.1–3 (4th Cir. 1985). "Courts have . . . held *de novo* review to be unnecessary in . . . situations when a party makes general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). In the absence of specific objections to the Report and

Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). In the present case, objections to the magistrate judge's Report and Recommendation were due on March 27, 2014. Neither Plaintiff nor Defendant has filed objections to the magistrate Report and Recommendation, and the time to object has passed.

After a review of the record, this Court finds that the magistrate judge's Report and Recommendation accurately summarizes this case and the applicable law. Accordingly, for the reasons articulated by the magistrate judge, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that Defendant's Motion to Set Aside Entry of Default is GRANTED. Defendant Karnick shall have fifteen (15) days from the date of this Order to file a responsive pleading to Plaintiff's Complaint.

IT IS SO ORDERED.



G. Ross Anderson, Jr.
Senior United States District Judge

May 6, 2014
Anderson, South Carolina